Conflict, Collaboration and Consensus In the Eastern Scotian Shelf Integrated Management (ESSIM) Initiative

Prepared for:
Oceans and Coastal Management Division
Oceans and Habitat Branch
Maritimes Region
Fisheries and Oceans Canada
Bedford Institute of Oceanography
PO Box 1006
Dartmouth, Nova Scotia B2Y 4A2

Prepared by:
BLSmith Groupwork Inc.
Liverpool, Nova Scotia

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Contents

Overview....1

1. Introduction/Background 3

2. Context 5

3. Definitions 6

4. Collaboration and Planning 7

5. Collaborative Skills.... 8

6. Jurisdictional Authority and Intra-Sectoral Issues....11

7. Consensus 12

8. Lack of Consensus 13

9. Circle of Conflict – A Model....15

10. Potential Causes of Conflict within the ESSIM Initiative 17

11. Ground Rules 24

12. Final Thoughts 25

13. References 26

Foreword

This discussion paper was prepared by BLSmith Groupwork Inc., in collaboration with DFO's ESSIM Planning Office. This paper has been prepared in response to questions regarding how conflict will be resolved and/or avoided through the ESSIM planning process and is intended as a companion piece for the November 2004 paper *Eastern Scotian Shelf Integrated Management Initiative: Proposed Collaborative Planning Model – A Discussion Paper,* available for download at: http://www.dfo-mpo.gc.ca/Library/283943.pdf. Please note that this paper will make more sense if the reader is familiar with the discussion paper describing the proposed Collaborative Planning Model or the draft ESSIM Plan, released in February 2005. The draft ESSIM Plan is available online at: http://www.dfo-mpo.gc.ca/Library/286215.pdf.

Feedback on the "Conflict, Collaboration and Consensus" discussion paper should be submitted to the ESSIM Planning Office at OCMD.

Scott Coffen-Smout
ESSIM Planning Office
Oceans and Coastal Management Division
Fisheries and Oceans Canada
Bedford Institute of Oceanography
PO Box 1006
Dartmouth, Nova Scotia B2Y 4A2
Tel: 902 426-2009
Fax: 902 426-3855
E-mail: essim@mar.dfo-mpo.gc.ca

CONFLICT, COLLABORATION AND CONSENSUS IN THE ESSIM INITIATIVE

Overview

A collaborative process leading to consensus is the primary conflict resolution mechanism for the ESSIM Initiative. It can be used proactively to avoid conflict, and reactively to resolve conflict.

Consensus is a principle of the Proposed ESSIM Collaborative Planning Model. Although it will be most prominent when used by specific groups, such as the Federal-Provincial ESSIM Working Group and the proposed Stakeholder Roundtable, it is the basis for most ESSIM discussion and decision-making.

Collaboration among the parties is the vehicle through which consensus is pursued. Capacity requirements include effective communication (reflective listening and assertive speaking) and interest-based problem solving. It is helpful if participants demonstrate maturity and emotional intelligence (respect for diverse views, inclusion, fairness, equity).

Consensus-seeking discussions can be used to resolve various types of conflict. The major types of ESSIM Initiative conflict will fall within the "circle of conflict" model developed by Christopher Moore and associates in the 1980s. Moore's circle shows five types of conflict: data, relationship, value, structure and interest. The model is revised here to better profile the most prominent causes of conflict within the ESSIM Initiative, which are likely to be:

• **substantive interest conflicts**, arising from situations relating to resource or spatial allocation and use, multiple use in the ESSIM area, or ESSIM plan priorities.

• **procedural interest conflicts**, relating to how the process works and is perceived to work, fairness, inclusion, managing of power imbalances, openness, and transparency.

• **structural conflicts** arising from a variety of administrative, coordinating, regulatory and institutional frameworks, processes and structures in place within the ESSIM area; and, involving hierarchy, power and resources.

• **data conflicts** resulting from misinformation, incomplete information, lack of scientific and other data and information, interpretation of data, poor communication or miscommunication.

In theory, when consensus is reached no conflict should remain.

However, realistically the ESSIM Initiative cannot be expected to resolve all interpersonal and communication issues among participants, nor can it bring harmony and cooperation to the interactions of all institutional stakeholders. It should be noted that these types of conflicts, while they may appear small and largely unrelated, do have the potential to impact negatively on the process.

Sometimes the issue or situation under discussion is complex (like development of an integrated ocean management plan), and consensus may be reached on some points but not on others. In these situations there should be a continuum of options, usually embedded in formal ground rules or protocols that prescribe actions to attempt to move beyond impasse, by building consensus to resolve the areas of disagreement.

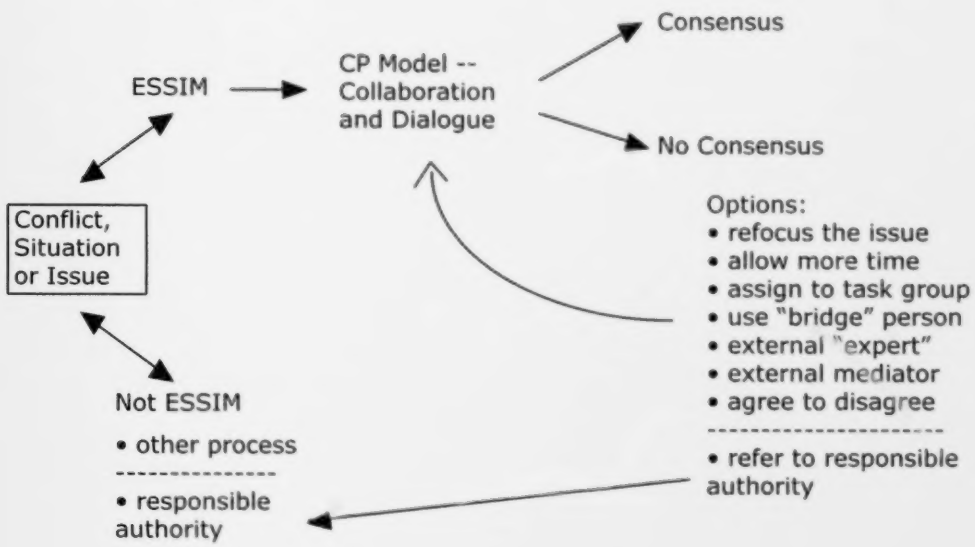
On a continuum of least to most intrusive, the options might be: allow more time during a session, or set the issue aside until a later date; assign discussion of the topic or development of options to a small task group; enlist the help of a group member who might have the ability to serve as a bridge or link between the various parties that are in disagreement; use an external expert to provide additional information or recommendations; use an external neutral third-party (mediator or facilitator); agree to exclude the topic from the plan for the time being; and finally, refer the issue to the responsible authority.

Conflicts within existing processes, especially those that occur within sectors, will be handled outside of ESSIM Initiative discussions. In addition, responsible authorities may handle specific issues outside of the ESSIM Initiative. However, all parties should be aware that the spirit and intent of collaboration and integration is the preferred model for all interactions between and among stakeholders within the ESSIM area.

Consensus processes can be difficult, and unity is not always achieved. But with commitment to the process and the development and use of effective communication and problem-solving skills, consensus can be an effective means to avoid or resolve conflict in a complex multi-stakeholder process such as the ESSIM Initiative.

The following diagram shows the various components of the conflict, collaboration and consensus model for the ESSIM Initiative.

Conflict, Collaboration and Consensus in the ESSIM Initiative



1. Introduction/Background

The Eastern Scotian Shelf Integrated Management (ESSIM) Initiative is a collaborative planning process led by the Oceans and Coastal Management Division (OCMD), Fisheries and Oceans Canada (DFO), Maritimes Region. The ESSIM Initiative commenced in 1998 and followed the Sable Gully Conservation Strategy's recommendation that integrated management approaches be applied to the offshore areas around the Sable Gully under DFO's Marine Protected Areas Program.

The ESSIM Initiative is guided by the *Oceans Act*, and two supporting documents: *Canada's Oceans Strategy*, and DFO's *Policy and Operational Framework for Integrated Management*. The latter document notes that planning must be supported by an institutional framework for collaboration within and among all levels of government. This is considered to be essential because the IM planning process will not limit or interfere with the legal authority of the participating decision-makers. Regulatory authorities will remain responsible and accountable for implementation within their jurisdictions.

Additional information about the history of the ESSIM Initiative is available on the ESSIM Web site. The site provides a comprehensive overview of the ESSIM Initiative, as well as access to a number of relevant papers, reports and documents. The ESSIM Initiative Web site is located at: http://www.mar.dfo-mpo.gc.ca/oceans/e/essim/essim-intro-e.html

The ESSIM Initiative is a collaborative integrated planning process. It is widely recognized that effective management of complex situations is through inclusion of all the individuals, groups or organizations that are impacted or have an interest – the stakeholders. For the ESSIM Initiative these include federal, provincial and municipal governments, First Nations, and a number of sectors: fisheries, oil and gas, marine conservation, coastal communities, academic, transportation, communication, and others.

The foundation of ESSIM is the commitment of the stakeholders to work together to develop an integrated plan that provides for effective management based on ecological, social, economic and institutional needs and priorities.

There has been a great deal of discussion within the ESSIM Initiative about the need for conflict resolution. This was mentioned at both the 1st and 2nd ESSIM Forum Workshops. It was also the subject of a discussion on the ESSIM Online Forum in spring 2003.

On these occasions the questions have been asked: "What will happen when there is conflict among ESSIM stakeholders? How will conflicting objectives be reconciled? How will conflict be resolved within the ESSIM Initiative?"

The purpose of this paper is to suggest answers to those questions. The paper begins with this introduction and background, which is followed by a description of the ESSIM context – specifically the proposed collaborative planning model, and then by some key definitions.

A three-part model of planning is presented in Section 4, with the intent to distinguish consultative planning, in which stakeholders have an opportunity to influence decisions, from collaborative planning – in which the process involves all stakeholders working to achieve consensus.

Section 5 discusses two critical collaborative skills – effective communication and interest-based discussion. The section is intended only to introduce the concepts and make the case for their importance in understanding how conflict can be avoided or resolved. Together they are the foundation of multiparty dialogue and collaboration.

Jurisdiction and authority are discussed in Section 6. Both of these are important principles because of the potential for an issue to need to be resolved by a responsible authority within an administrative or regulatory mechanism, or through an existing intra-sectoral or integrated process.

In Section 7 we discuss consensus as the desired outcome of dialogue and collaboration that results in conflict avoidance and resolution. Section 8 sets out a range of options for how discussions might continue in situations where parties disagree about desired outcomes.

A model for understanding causes of conflict is presented in Section 9. In Section 10 that model is modified and used to consider potential causes of conflict within the ESSIM Initiative. Ground rules as an important tool are discussed in Section 11. Recommendations are provided in Section 12, and References in Section 13.

2. Context

The Proposed Collaborative Planning Model for the ESSIM initiative has a number of components.[1] The ESSIM Forum and the proposed Stakeholder Roundtable (SRT) are multi-stakeholder bodies. The ESSIM Forum is an inclusive stakeholder body. It met in 2002, 2003 and in February 2005. Establishment of an SRT is proposed for 2005.

The government sector structure includes a Federal-Provincial ESSIM Working Group (established and active since January 2001), and a proposed Regional Committee on Ocean Management (RCOM). A Planning Office serves as the secretariat, provides planning expertise, and links directly with stakeholders through a variety of mechanisms.

The discussion of conflict resolution within the ESSIM Initiative pertains to the functioning of all parts of the Collaborative Planning Model and the Government Sector Structure, as well as the work of the Planning Office. It should be noted that for some stakeholders the primary focus will be on the workings of the Stakeholder Roundtable. This is because a function of the SRT is to assist with issue resolution. It is proposed as a place where potential barriers and disagreements can be addressed. So it will be important to ensure that the SRT is well equipped to work collaboratively to avoid and resolve conflict.

The SRT is proposed as a 26-member (+/- 2) representative multi-stakeholder forum. It will be composed of representatives of the major sectors, with the option to have citizens sit as members at large. As with all parts of the Proposed ESSIM Collaborative Planning Model, it is proposed that the SRT work by consensus.

It should be noted that the general discussion in this paper will relate to all elements of the ESSIM Collaborative Planning Model and Government Structure, and not just the proposed Stakeholder Roundtable.

[1] See *Eastern Scotian Shelf Integrated Management Initiative: Proposed Collaborative Planning Model – A Discussion Paper*, November 2004. DFO Oceans and Coastal Management Report 2004-05. Prepared by BLSmith Groupwork Inc.

3. Definitions

It is important at the outset to have clear understanding of the terms conflict, consensus and collaboration.

Conflict

A conflict is a situation in which one or more parties feel that the ability to meet their needs, or hold their views, is in direct opposition to the ability of another party to meet their needs, or hold their views. Often this is a perception based on an initial assessment made with limited information. In general, conflict is neither bad nor good – it is how conflict is managed that makes it one or the other.

Conflict resolution refers to actions taken to *avoid* or *resolve* conflict. It is suggested in this paper that many of the skills of conflict resolution, applied proactively, result in avoidance of conflict as the parties adopt a problem-solving approach to discussing important issues. Conflict resolution is synonymous with "dispute resolution." The term alternate dispute resolution (ADR) refers to methods of dispute resolution that minimize or eliminate the use of force, power or legal remedies.

Consensus

Consensus is an agreement reached by two or more parties to accept a mutually developed resolution or course of action. Although its technical definition may differ in some processes, the most common statement of consensus is when all of the parties agree that they can "live with" an outcome. In other words, it may not be perfect, and everyone may not have everything they wanted, but overall the parties are satisfied with the result. Consensus is a principle of the Collaborative Planning Model, and is specified as a preferred approach for the Stakeholder Roundtable when possible.

Collaboration

Parties collaborate when they work together in such a manner that the agenda of each has a high level of importance to the other. In order for one party to achieve their desired results, they work to help the other party achieve theirs. Thus, collaboration is based on reciprocity and mutual interdependence. It is more than cooperation and partnership, although those terms are sometimes used as synonyms for collaboration. Collaboration is about getting substantive results while building strong relationships. It is a fundamental principle of the ESSIM Initiative.

4. Collaboration and Planning

An overly simplified model of planning might include three approaches: traditional, consultative and collaborative.

Traditional planning has an authoritative foundation. Planners do the work of planning. Decision makers set priorities and make choices and tradeoffs (usually based on recommendations from the planners.)

Consultative planning gives stakeholders a voice in the process. Through a variety of mechanisms stakeholders have an opportunity to influence a decision. The quality of these processes varies as the sponsors either pay lip service to listening and considering the views of stakeholders, or else actually design and implement a respectful and productive process through which stakeholders have meaningful participation. In the end the decision makers still decide.

Collaborative planning involves stakeholders directly in the process – in setting priorities, negotiating solutions and recommending final decisions. The process used is known as "interest-based negotiation" or "mutual gains bargaining." It is also called "consensus decision-making." Consensus is the desired outcome – stakeholders getting to the point where all can agree on the final result.

Consultative and collaborative planning are both types of "participatory planning."

It should be noted that in the ESSIM Initiative the stakeholders will recommend the draft plan for sector acceptance, jurisdictional endorsement and final approval under the *Oceans Act*. The process will set objectives, while the responsible authorities will decide how they are achieved and how actions are implemented.

As mentioned previously, a fundamental principle of collaboration is mutual interdependence. The ability of each stakeholder to achieve the outcome they desire is dependent upon the effort and commitment of all stakeholders. One cannot do it alone. When stakeholders think that they can meet their own needs without working with others, they will use processes based on power or rights. When stakeholders work together to develop a mutually acceptable outcome, their discussions are based on interests.

5. Collaborative Skills

Participation in collaborative processes is enhanced for all when individuals are willing and able to use effective communication and interest-based discussion skills.

Effective communication and interest-based discussion are important factors when trying to reach consensus and develop "win-win" solutions. They require patience, discipline and intention, and are the basis for collaboration on issues for which there is a high degree of mutual interdependence among the parties.

Effective communication requires that parties:

- avoid making assumptions, and "problem-solving" for others. Suspend judgement, are curious and question their own assumptions;
- listen to learn and understand rather than to judge and argue. They listen reflectively, concentrating on what the other person is saying, not with preconceptions or with an intent to argue or criticize. Statements are paraphrased and clarifying questions are asked;
- speak assertively to explain rather than to advocate or convince. They avoid stereotyping or blaming, and focus on situation, behaviour and impact, rather than on a person or organization.

Participants should be able to call on their knowledge, skills and abilities when necessary, and use them intentionally, by choice. They are practiced when times are good so they can be used in difficult situations.

Emotional intelligence[2] (EI) is a term that is used a great deal when referring to those individual characteristics (knowledge, skills, attitudes and behaviours) that enable a person to interact with others in a mature, sensitive and productive manner. EI is an asset for participants in the ESSIM Initiative. Appendix B of the Proposed ESSIM Collaborative Planning Model Discussion Paper lists commitment, respect and capacity as selection criteria for SRT members, both for organizations and for the individuals who sit at the table.

Interest-based discussion was developed at the Harvard Negotiation Project, and communicated broadly by Roger Fisher and William Ury in their seminal book *Getting to Yes*.[3] The approach highlighted four basic principles:

- separating the people from the problem
- focusing on interests, not positions
- inventing options for mutual gain
- using objective criteria to guide decisions

The process they described has become known as "interest-based negotiation (IBN)" or "mutual gains bargaining", and is used world-wide as the primary mechanism through which multiparty consensus is achieved. It is further described and expanded upon by a wide range of authors and professionals in dispute resolution and consensus decision-making.

The National Roundtable on the Environment and Economy developed its own ten principles for consensus decision processes in 1993.[4] In Canada a number of processes that used interest-

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[2] Daniel Goleman, *Working with Emotional Intelligence*, Bantam Books, 1998.
[3] Roger Fisher and William Ury, *Getting to Yes*, Boston: Houghton Mifflin Co., 1981.
[4] National Roundtable on the Environment and the Economy, *Building Consensus for a Sustainable Future: Guiding Principles*, Ottawa, 1993.

based negotiation have been described in the book Building Consensus for a Sustainable Future.

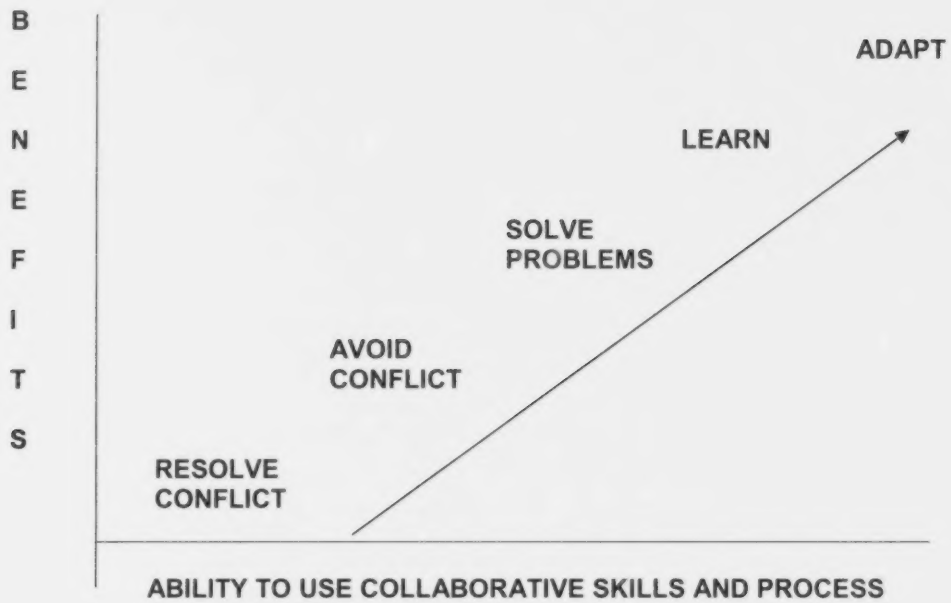
Interest-based negotiation is proposed as a working tool for the ESSIM Initiative within the Proposed Collaborative Planning Model.[5] IBN is an effective way to achieve "win-win" outcomes. Parties are encouraged to see the "problem" in non-personal terms, and to adopt a joint problem-solving approach – "us against the problem."

This approach also promotes the building and maintaining of strong relationships between and among parties. This is especially important for long-term processes in which participants will be interacting over months or years.

The "Continuum of Collaboration" diagram indicates that when collaborative skills and process are embedded in organizational culture and style, it is possible to move beyond conflict resolution and avoidance, to effective problem solving, shared learning and the ability to adapt to a complex, uncertain and constantly changing environment.

[5] Collaborative Planning Model Discussion Paper, p. 8.

Continuum of Collaboration©



>> The knowledge, skills and abilities necessary for resolving conflict, when applied proactively, can help an organization avoid conflict, solve problems (often in an innovative manner), learn together and adapt to a complex, uncertain and rapidly changing environment.

>> Benefits increase with the degree to which the ability to work collaboratively is an integrated, coherent and intentional part of an organization's culture.

>> The Continuum of Collaboration applies to a wide range of organizational functions and activities, including: policy and program development, stakeholder engagement and public consultation, planning, service delivery, board governance, teambuilding, reorganization, change and transition, and the development of partnerships and strategic alliances.

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6. Jurisdictional Authority and Intra-Sectoral Issues

Jurisdiction is a principle of the Proposed ESSIM Collaborative Planning Model. It is described on page 8 of the proposed ESSIM Collaborative Planning Model Discussion Paper as follows:

"Jurisdiction: Existing legislative and regulatory mandates of all government departments and agencies are acknowledged and affirmed. The ESSIM initiative will seek to create an integrated framework by including all mandates and departments/agencies within the process. The plan must be consistent with the interests of responsible authorities..."

It is also discussed in the Information and Background section of the paper (pages 3–4). It is noted in the DFO document The Policy and Operational Framework for Integrated Management that "... [the IM planning process] will not infringe on the legal authority of the participating decision makers, administrative and legal jurisdictions will be respected, and existing regulatory authorities will remain responsible and politically accountable for implementation within their jurisdictions."[6]

This is important for conflict resolution from two perspectives. First, when a conflict lies wholly within the mandate of a single department or agency, it may not need to be considered within the ESSIM planning discussions. Resolution of conflicts that lie solely within single mandates are generally considered to be the responsibility of the respective department or agency. Second, if an inter-sectoral conflict exists and is considered within the ESSIM process but is left unresolved, it may fall to the responsible agencies to review the situation and act in accordance with their mandates.

Intra-sectoral issues will generally be handled within existing processes and structures. It should also be noted that inter-sectoral conflict within the ESSIM area may not be considered within the ESSIM planning process. That is because the ESSIM Initiative recognizes existing sectoral and inter-sectoral processes and structures, and while seeking to include them within the broader ESSIM network, will not interfere with their ability to carry out their own mandates. As a result, priority setting, decision making and conflict resolution within the fisheries sector, the oil and gas sector, or any other specific sector, and within existing intersectoral processes, are likely to be handled through the existing mechanisms.

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[6] *Policy and Operational Framework for Integrated Management of Estuarine, Coastal and Marine Environments in Canada*, DFO 2002, p. 14.

7. Consensus

Consensus is more than an abstract notion of agreement at the end of a discussion (see Section 3 on Definitions). Making decisions by consensus is a way to avoid or resolve conflict. It is a conflict avoidance method if it is used proactively, and if parties have the discipline to use the process in lieu of pursuing competitive strategies or assuming advocacy positions.

While consensus is a desired outcome, the term is often used to refer to the actual process of reaching agreement.

The process for reaching consensus is also a way to resolve conflict. It is a way for parties with divergent views, needs or concerns to look for innovative ways in which, to the extent possible, all can be met or addressed. Seeking multiparty consensus is the basis for numerous ocean and coastal management processes.[7]

As noted previously, consensus is a principle of the ESSIM Initiative, and is outlined on page 8 of the Proposed ESSIM Collaborative Planning Model Discussion Paper.

Stakeholders have been wondering how conflict will be resolved within the ESSIM process. They can envision situations in which stakeholders have what appear to be mutually exclusive interests, and are concerned that the process will not be capable of dealing with those situations.

The first part of the answer to that question is that **the process of stakeholder collaboration – seeking to achieve consensus on planning process design and outcomes – is itself the primary mechanism for conflict avoidance and resolution within the ESSIM Initiative.**

It will be necessary further into this paper to identify various causes of conflict, so that we can consider specific steps to deal with each. But for now it is important to see the collaborative, consensus-seeking process itself as the primary mechanism through which conflict will be avoided or resolved.

It should be noted that within the collaborative planning process there may be relatively routine decisions required, such as those relating to meeting logistics and administrative details, that may not require consensus.

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[7] In Atlantic Canada consensus is used in the Gulf of Maine Council and the Southern Gulf of St. Lawrence Coalition on Sustainability, among others.

8. Lack of Consensus

It is not uncommon for processes that are seeking consensus to run into difficult issues or dynamics that present additional challenges. For the purpose of this paper it is useful to separate issues of **substance**, e.g., issues that arise in the planning context, from those that relate to the **process** design and implementation, the behaviours of participants, social interactions and group dynamics.

Substantive conflicts might be those relating to the priorities, goals, objectives and actions within the ESSIM Plan. They would be issues relating to spatial and resource use, community development, economic development, environmental health and sustainability.

Sources of process conflicts might include: discussions about who participates in the process; the way information is shared; the way jurisdictional mandates are brought to the discussion; and, the inability of individuals and organizations to work together in a collaborative manner.

What will happen when, despite the best efforts of stakeholders, they are unable to reach consensus on a specific discussion topic? The first step in considering that question is to assess whether the difficulty is substantive – inherent in the nature of the situation being discussed – or the result of an aspect of process design or implementation.

The ESSIM Proposed Collaborative Planning Model, A Discussion Paper, suggests that there should be protocols or ground rules established to guide participants through the challenging process of working toward consensus.[8]

It is common in consensus decision processes for stakeholders to think about what steps they will take if consensus cannot be achieved. These tend to form a continuum from the less-intrusive to the more-intrusive. A relatively simple step might be to adjourn the discussion and allow participants more time to reflect. A more intrusive intervention is to refer the decision to the appropriate jurisdiction.

There are a number of mechanisms that can be used in situations where consensus is not being achieved. These form a continuum:

- if there is significant support for a direction or decision, but a few participants are in opposition, ask them **what would need to change** in order for them to support the proposal.

- **allow more time.** This could mean taking a short break from the discussions so that parties can meet privately or a participant has some quiet time to think, or it might mean leaving the specific topic under discussion for consideration at a future meeting.

- **seek additional data and information.** This can be useful if one or more of the parties is finding it difficult to make a decision because of unclear or partial information.

- use a member of the group to **convene a small meeting** with the parties that are in disagreement to see if a resolution can be worked out. Group members may be given mediation training for this purpose.

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[8] See p. 8 of the Collaborative Planning Model discussion paper and footnote 4.

- ask a mutually agreed upon **"independent expert"** to prepare an analysis and options for consideration.

- use a **neutral external third party** (facilitator or mediator) to assist with the discussion.

- try to agree on the nature of the disagreement and present **recommendations to the decision makers** with dissenting views on the issue(s) in question expressed and noted.

These mechanisms are often set out as a continuum, and used in sequence.

If the problem appears to be with the process, it might be helpful to ask some of the following questions:

- are all sectors and interests represented at the table?
- are the right groups at the table?
- are the right people at the table?
- do all parties agree on the description of the issue?
- is a group or individual intentionally blocking a consensus?

It should be noted that voting is not recommended as a fallback in cases where consensus is proving difficult to achieve. Although it may be used in some processes, it is generally not considered to be consistent with a commitment to consensus. If group members know that in the absence of consensus a vote will be taken, commitment can be reduced, and dialogue can reflect premature assumptions, alliance-building and polarization.

9. Circle of Conflict – A Model

An online discussion in the spring of 2003 raised questions about the potential for conflict within the ESSIM Initiative.[9] Several participants made the point that potential causes of conflict should be anticipated so that appropriate conflict resolution mechanisms can be put in place.

A commonly used model for understanding causes of conflict was developed in the 1980s by Chris Moore and colleagues at CDR Associates in Boulder, Colorado. The "Circle of Conflict" (Moore, 1986) describes five categories of conflict: data, relationship, value, structure and interest. Specific conflict situations will often involve elements from more than one of the five categories. Following is an overview of Moore's "Circle of Conflict".

• **data:** lack of information, misinformation, partial information, different interpretations of information, different assessment procedures

• **relationship:** strong emotions, perceptions or stereotypes, poor communication, repetitive negative behaviours or encounters

• **value:** different criteria for evaluating ideas or behaviours, exclusive intrinsically valuable goals, different ways of life, ideology and religion

• **structure:** power, control, hierarchy, resources, mandates, policies, procedures, legislation, regulation

• **interest:** needs or concerns; what is important to an individual or organization about how a situation is resolved

There are three types of interests: substantive, procedural and psychological. They are sometimes shown as the "satisfaction triangle," showing that resolution of conflict often involves 2 or 3 of the sides.

Substantive interests are: money, property, infrastructure, resources.

Procedural interests have to do with how a process works: fairness, openness, transparency, equity.

Psychological interests relate to how a person feels about a situation – respect, recognition, dignity, professionalism.

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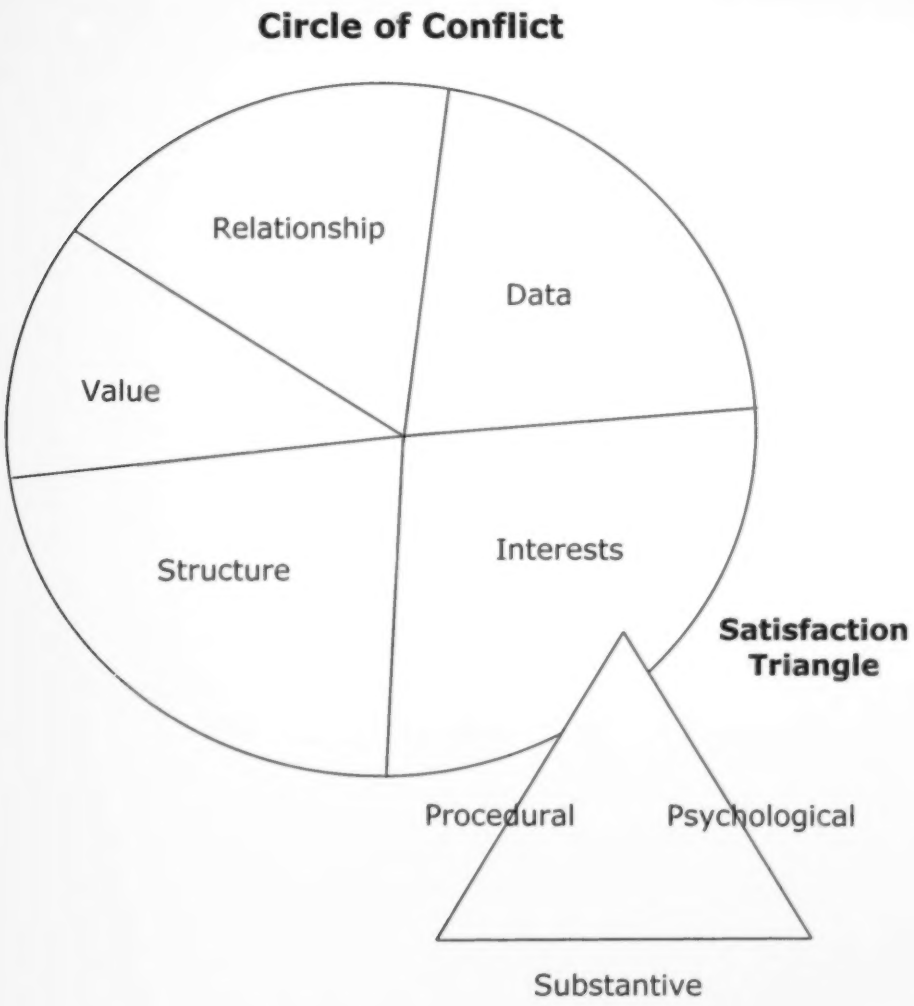
[9] Thinkwell Online – ESSIM Discussion Forum. The Discussion has been archived and is available for ESSIM Online Forum participants. It will be continued in March–April 2005, with this paper as the focal point.

The relationship between the circle of conflict and the satisfaction triangle is shown in the following graphic.



Used with permission of CDR Associates, Boulder, Colorado

10. Potential Causes of Conflict within the ESSIM Initiative

Using the basic framework provided by Moore's model, we organize potential causes of conflict within the ESSIM Initiative into five broad categories: Data/Information, Relationships, Values and Principles, Structure and Interests. We further subdivide Interests into: substantive, procedural and psychological. In presenting them here, we reorder them to better reflect what may be the order in which their occurrence may result in challenges within the ESSIM Initiative.

Substantive Interests

This category includes: resource and spatial allocation and use (distribution of natural capital); principles and priorities to guide multiple use; guidelines and decision rules.

The issues that may arise in this category are likely to be issues that are the subject of the planning processes itself. These will be about the setting of priorities and determination of goals and objectives, and actions for the ESSIM area. They may be about how ecosystem and human use objectives are merged in the plan.

Resource allocation and use may be primarily an issue within a sector, such as fisheries, and as such may be handled within existing processes.

Issues of spatial allocation, on the other hand, often involve multiple sectors. For example, there may be interactions between seabed corridors used by pipelines and cables, and harvesting/extraction activities by the fisheries and the oil and gas sectors.

Another example of potential spatial conflict may occur when an exclusion zone is used to protect a feature or population.

Situations may arise around the issue of who was first to use a resource or undertake activity in an area. There may also be feelings that local residents and communities should have priority access to resources, area and benefits. In those cases "local" may have numerous definitions.

Trade policy and international treaties and agreements may need to be taken into consideration.

Procedural Interests

This category is about how the process is perceived – assessment of fairness, equity, openness, transparency; trust; commitment.

These conflicts arise when an individual or group feel they are being treated unfairly, that decisions are made in ways which do not reflect due process -- when the "rules of the game" have been violated.

These issues will relate to the design and implementation of the ESSIM planning process itself.

In these situations, the perceived violation may be sufficient to make substantive resolution very difficult. The process becomes the issue, instead of the substantive discussion. This is an ongoing challenge for collaborative processes. See additional discussion about the importance of the process not becoming the issue in Sections 12 and 13.

It will be important for participants (especially on the SRT) to develop their own ground rules. These can provide guidance relating to purpose and roles, operating principles, processes and structure.

Careful process design is essential. Stakeholders should be directly involved at the earliest opportunity.

Full inclusion is important, as are full and fair representation. The ESSIM Forum is open to all who are interested.

Membership on the proposed Stakeholder Roundtable must be limited, and efforts must be made to ensure that representation is as full and balanced as possible, understanding that size is a factor that will have an impact on the effectiveness of the group. Having a seat at the table may become an issue.

Implementation is also critical, and because this is ongoing it requires constant vigilance. A professional facilitator may be used to give full attention to the process and ensure that participants are treated fairly and ground rules are followed.

Other issues may arise around power and influence "big guy vs. little guy", and around the potential for a stakeholder to leave the process and seek political influence or intervention (an "end-run".)

Structure

This category includes things that are part of a wide range of administrative, institutional, hierarchical and bureaucratic structures and processes. The ESSIM Initiative may experience conflict due to the following types of situations:

• Involvement of four levels of government plus agencies, and relationships between and among them; horizontal coordination
Conflict in this area may relate to issues of jurisdiction, mandate, priority, policy, programs, and resources. The jurisdictions, departments and agencies working within the ESSIM process have a range of existing management plans and administrative agreements already in place. International treaties affect the ESSIM area and are administered by a number of authorities.

The Federal-Provincial ESSIM Working Group was founded in January 2001 and has been active since that time. It is the primary mechanism for intergovernmental coordination and collaboration for the ESSIM Initiative. At present it does not include municipalities or First Nations.

The Proposed ESSIM CP Model discussion paper describes an executive intergovernmental group called the Regional Committee on Ocean Management (RCOM.) The potential is noted for that group to invite First Nations participation.

• Integration and horizontal coordination within the Department of Fisheries and Oceans (DFO)
It will be important for DFO to be clear about the relationship between the Fisheries Act and the Oceans Act. As the lead department, there must be a consistent and cohesive approach, direction and commitment. This includes within the regional organizational structure and with Ottawa.

• Availability and contribution of fiscal and human resources
At present the ESSIM Initiative is being resourced solely by DFO, with other departments, agencies and stakeholders providing human resources in the form of their representatives on various groups.

• Existing sectoral structures and processes
There are many activities carried out within the ESSIM area that are coordinated, managed or regulated through existing mechanisms and mandates. How will these be integrated with the ESSIM process? Will there be good communication? Shared decision-making? To what extent will participants in existing processes feel part of the ESSIM Initiative and Plan?

It is likely that the Federal-Provincial ESSIM Working Group and RCOM will need to discuss a wide range of jurisdictional issues, making the ability to collaborate and work horizontally especially important. The groups may need to discuss how both vertical and horizontal accountability will be achieved. Horizontal accountability must include all ESSIM stakeholders, and not be restricted to those in the government sector.

Data

The ESSIM Initiative may experience data and information conflict due to the following circumstances:

- miscommunication or poor communication among stakeholders, leading to misunderstanding
- lack of data, information, research and science – making analysis and decision-making difficult
- differing interpretation of data;
- differential access to data and information;
- questions about the quality and credibility of science.

Within the ESSIM Initiative there is a need for a wide range of information relating to the biophysical environment, human and institutional activity. Lack of information is frequently cited as a significant shortcoming, because it is difficult to discuss and plan for outcomes without a full understanding of the situation.

Timely, accurate and open communication is a basis for trust. It is also a demonstration of the process being open and transparent. Any or all of the above may also lead to questions about the fairness of the process (procedural interest) and result in loss of trust.

The remedy is to improve the process or content, ensuring that information meets end user needs and criteria for quality, timeliness, form, etc. When information quality is poor or ambiguous, or timing is off, the door is open for assumption or rumour to take the place of good information.

The best way to avoid data conflicts is to ensure that information is provided in a clear, timely and consistent manner to those who need it. Information should be restricted only for genuine reasons of confidentiality.

Poor communication or miscommunication – sometimes the result of making assumptions without having all of the information – are often intertwined with other factors in a complex conflict situation.

Values and Principles

Conflict may be experienced within the ESSIM Initiative due to a range of circumstances, for example: differing definition of key concepts such as "sustainable" and "sustainability", common property, Individual Transferable Quotas (ITQs), and the "precautionary principle."

Values are fundamental beliefs that shape our understanding of the world, and underlie our decisions and actions.

It is wise to recognize, accept and respect fundamental differences in values, without trying to influence others, convince, convert or determine whose values are right and whose are wrong. Productive conversations can be had about how discussions can proceed given the fundamental value differences.

A facilitator will recognize these issues and work with participants to increase mutual understanding and respect for diverse views.

Work is done not to merge or reach consensus on values or choose one over another, but to develop ways of working together based on the parties holding diverse and perhaps opposing values.

In some cases value conflicts can be reframed into smaller specific interest conflicts, which can then be discussed and resolved.

Relationships

The ESSIM Initiative may experience relationship conflict due to the following circumstances:

• Differences in personal style/preference. Diversity can be a source of conflict or strength. As individuals we all have personal styles and preferences which are well developed, and are part of "us". Failure to recognize and be sensitive to people who have differing styles and preferences can be a source of conflict.

• History of poor communication between individuals or organizations. Bad feelings which have resulted from a past incident can carry forward and colour future dealings. Sometimes the details of the specific situation cannot be remembered, but we know that "so and so is a jerk", or "we just don't get along."

• Blaming and stereotyping. Personalizing of situations, including blaming or stereotyping individuals or organizations may result in conflict between or among the parties.

• Strong emotions. When people are feeling strong emotion, especially anger, it interferes with the ability to communicate effectively. There can be many reasons why participants bring emotion into a process such as the ESSIM Initiative. Understanding the source of the emotion is the first step in effectively communicating about the issue.

We rarely know what is going on in the lives of others, and what makes people say and do things in a certain way. Life is complex and stressful, and interactions between individuals are often impacted by personal emotions that one person brings to a conversation, but that are related to another situation.

Interpersonal conflict is rarely all there is to a situation. While the interpersonal aspects of a conflict are distressing and require attention, it is often the case that the root cause lies either in a structural or interest conflict. Identification of the root cause of the conflict can make it easier to resolve relationship conflict.

Psychological Interests

These have to do with the impact of the ESSIM Initiative on the self-esteem, worth, reputation or future of individuals and organizations; the impact of change and transition on individuals and communities; or feelings of helplessness in the face of trends, actions and decisions made by others.

As with procedural interests, these will have a direct relationship to the quality of process design and implementation. There is more potential here for the process itself not to be able to bring a final resolution.

These conflicts relate to how individuals or groups feel about a situation. The clues to this type of conflict can be picked up by listening to the discussion about the issue. Strong expressions of emotion, either directly or indirectly, are an indication that there are psychological needs that must be addressed.

Seeking consensus within the ESSIM Initiative is an opportunity for individuals and groups to have a direct input into – and perhaps make by consensus – decisions that will affect them. This can be a very empowering and satisfying experience.

11. Ground Rules

Multi-stakeholder processes generally have ground rules or protocols to guide participant interactions – creating a common base of values, expectations and responsibilities. National Round Table Principle #4 talks about the importance of having ground rules, and of having them designed by the participants.[10]

Ground rules can describe the purpose of the process (sometimes called Terms of Reference); establish values and principles that will guide interactions; and provide operational details relating to process and structure.

Groups/processes should develop their own ground rules. This helps to ensure compliance because of the ownership and commitment that comes with having taken part in their development. It is also a good way to get participants used to working together but without having the pressure that comes with discussing contentious issues.

Development of ground rules for the ESSIM Initiative began with value discussions in preparation for and during the first ESSIM Forum Workshop. Earlier discussions were held within OCMD and within the Federal-Provincial ESSIM Working Group.

Initial formal discussion of ground rules is provided in the ESSIM Proposed Collaborative Planning Model discussion paper.[11]

One area that participants often want to address is what constitutes commitment to the process, and at what point the sincerity of an individual's or organization's actions may be called into question. At what point is it legitimate to go outside of the process? What happens if people suspect that delay is being used as a tactic?

Ground rules must address the areas in which participants have concerns. They are enforced by group members, as well as by a chair or facilitator. They may need to be periodically revisited and refreshed.

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[10] NRTEE, 1993, *Building Consensus for a Sustainable Future*, p. 12.

[11] The entire paper is about the design of the ESSIM Collaborative Planning Model, and so has direct connection to operational values, process and structure. Ground rules are discussed on pages 11 and 12.

12. Final Thoughts

It was suggested at the beginning of this paper that conflict is neither bad nor good – it is how we deal with it that makes us see it as one or the other.

In this paper we have discussed the importance of effective communication and interest-based discussion in the collaborative process leading to consensus. We have also looked at causes of conflict using the model developed by Chris Moore, modified that model and applied it to potential conflict situations within the ESSIM Initiative.

If we believe the old adage "an ounce of prevention is worth a pound of cure," there are a number of things we can do during process design, plan development and implementation to avoid conflict, and make constructive conflict resolution an integral part of the process.

As the Continuum of Collaboration graphic suggests, the same skills and process that we use to resolve or avoid conflict can also be used to solve problems, learn together and adapt in a complex, uncertain and rapidly changing environment. They are life skills for continued collaboration within the ESSIM Initiative.

In closing, we note that while emphasis is placed on using collaborative skills to reach consensus on issues and differences within the planning process, it will also be important to take steps to ensure that the process itself is well designed and managed, so it does not become an issue unto itself, and draw energy and focus away from the work of integrated ocean planning and management.

13. References

Some of these references are quoted or cited in footnotes in the paper. Others are included because they will be of interest to anyone who has an interest in pursuing the subject in greater depth.

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